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Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Reorganization and Revision of)
Parts 1, 2, 21 and 94 of) WT Docket No. 94-148
the Rules to Establish a New)
Part 101 Governing Terrestrial) DOCKET FILE COPY ORIGINAL
Microwave Fixed Radio Services)

Reply Comments of Creative Broadcast Techniques, Inc.
and The New Vision Group, Inc.

Creative Broadcast Techniques, Inc. ("CBT") and The New Vision Group, Inc. ("New Vision"), hereby reply to comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding, released on December 28, 1994. We welcome the Commission's initiative to refine and streamline the rules that govern use of microwave facilities, and also find the comments useful to that Commission effort. There are several minor problems, however, in comments focused only on the needs of fixed operations that do not take into account that the rules also govern temporary fixed and certain mobile operations.

CBT and New Vision are licensees of Local Television Transmission Service facilities, which they use to provide remote pickup transmissions primarily for the production and transmission of video programming at special events. Thus, CBT and New Vision are particularly aware of the requirements of operators that rely on temporary fixed or mobile stations under current Part 21 of the Commission's rules. We offer these reply

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comments in order to ensure that the rules as modified will not erect new regulatory barriers to the efficient use of these facilities.

Discussion

The Telecommunications Industry Association (TIA) and the National Spectrum Managers Association (NSMA) filed important comments in this proceeding, representing the views of fixed microwave operators and frequency coordinators who work with them. For the most part they have submitted very informed and useful comments. In several important respects, however, their comments and the revised Part 101 they propose focus only on fixed microwave operations. As a result, the changes they propose inadvertently would work to the detriment of temporary fixed or mobile operations. These problems may be corrected with minor adjustments, in order to avoid creating new regulatory problems contrary to the Commission's intent to make its rules more efficient.

1. Special Temporary Authorization - Proposed Section 101.31

CBT and New Vision are not certain that it is a wise idea to combine the rules for special temporary authorization (STA) and operation at a temporary fixed location as TIA/NSMA propose in their version of Section 101.31.¹ These rules serve different functions and might better be kept separate. Regardless of how this matter is resolved, the Commission should not adopt TIA/NSMA proposed Section 101.31(a)(4)(xiii) requiring that all STA applications contain certification that prior coordination has been completed.

¹ CBT and New Vision do not object to the TIA/NSMA argument that private carriers and common carriers should both be eligible for temporary fixed authorizations. See TIA/NSMA comments at iv, 7, 15-16.

TIA/NSMA briefly justify this proposal by stating it is standard practice in the microwave industry and also is proposed in the Commission's version of new Section 101.103(d)(2)(vi) for permanent authorizations. Of course, prior coordination also is standard practice for operators in the LTTS and other temporary fixed services, but that coordination often is accomplished at the last moment with other broadcast, cable or network entities that share frequencies with the LTTS operators, particularly with STA operations. CBT and New Vision have experienced situations in which an STA application must be submitted before prior coordination can be complete, and in some instances have requested STA authority for a range of frequencies, depending on final coordination being accomplished.

Contrary to the TIA/NSMA suggestion, Section 101.103(d)(2)(vi) should not be used as a model for STA authority, since that section deals with permanent facilities that are planned months in advance, not to STAs that by their very nature may be subject to different time pressures.

Thus, the Commission should not adopt this TIA/NSMA proposal or, if it does, it should include regulatory flexibility so that prior coordination is only required "if applicable." The Commission should then clarify that this requirement should not normally apply to temporary fixed or mobile television pickup stations.

CBT and New Vision also take this opportunity to note another issue raised by TIA/NSMA with respect to the rules governing STAs. TIA/NSMA would require applications for both permanent and STA operation to identify in detail the equipment that will be used.² They argue that this equipment information is necessary to maintain national frequency coordination data

² See TIA/NSMA at 13, note 16, comparing proposed Sections 101.31(d)(8) and 101.21.

bases. Their argument may be correct for fixed operations, but it does not apply to temporary fixed or mobile television pickup operations. The Commission has not previously required such information for applications to provide either STA or permanent LTTS service. Thus, CBT and New Vision submit this requirement should be deleted from both the rules on STAs and permanent authorizations with respect to LTTS or other temporary fixed operations.

Finally, CBT and New Vision support the suggestion by SBC Communications, Inc. that the Commission expressly provide for blanket STA operation. We would modify that suggestion to permit applications to be made for temporary fixed operations subject to coordination, rather than require in all instances that coordination be completed before the application is filed. This approach serves the public interest by providing for regulatory flexibility and development of new and innovative service arrangements.

2. Frequency Coordination Procedures - Proposed Section 101.103

TIA/NSMA argue that all oral coordination agreements should be reduced to writing. Their proposed Section 101.103(d)(2)(vi) would make it the responsibility of the notifying operator to receive "written concurrence (or verbal, with written to follow)" from other parties.³ Again, this requirement may work well for fixed operations, but it is inappropriate for temporary fixed or mobile television pickup operations in the LTTS service.

As CBT and New Vision note above, they often must coordinate their temporary fixed and mobile operations with local broadcasters on very short

³ The TIA/NSMA proposal is not entirely consistent with respect to this confirmation requirement. Their proposed Section 101.103(d)(2)(i) specifies that parties providing an oral notice or response of a coordination should supply written documentation "upon request." At their proposed Section 101.103(d)(2)(vi), however, it appears that such written response would be mandatory.

time frames. Thus, CBT, New Vision and other LTTS operators do not have the leisure of sending paperwork back and forth that fixed operators may enjoy. (Nor are they likely to obtain such paperwork in all instances from local broadcaster frequency coordinators, who voluntarily assume the rigorous job of coordinating ENG operations in their territory.) New Vision has worked with groups that provided the equivalent of LTTS service in Canada, where there was a requirement for such written documentation. In its experience, this requirement was a major administrative headache, which increased the cost of regulatory compliance.

This requirement of written documentation becomes especially onerous because TIA/NSMA have included this requirement in their proposed rule on STA and temporary authorization. Their proposed Section 101.31(c) explicitly refers to the need for written documentation, which is inappropriate for STA or temporary authorization applications in which time is of the essence.

The Commission's proposed LTTS rule 101.807(c) contains a cross-reference to prior coordination rule 101.103(d). By including the written documentation requirement in 101.103(d), TIA/NSMA would place a very large and expensive regulatory burden on the LTTS industry, for no apparent purpose. CBT and New Vision urge that this result be avoided through either an explicit exemption for temporary fixed and mobile operators, or some other administrative solution that fulfills the Commission's goals of making its rules more efficient, less costly and easier to understand.

3. Supplementary showing - Proposed Section 101.713

TIA/NSMA would consolidate the Commission's proposed Section 101.713 on supplementary showings required with applications into their

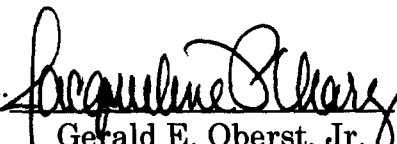
proposed Section 101.31. This creates a small cross-reference problem, because Sections 101.807(a)(5) and 101.809 of the LTTS rules continue to refer to 101.713. If the TIA/NSMA proposal is adopted, then these cross-references should be corrected. At the same time, however, if the Commission creates a new cross-reference in the LTTS rules to Section 101.31, it should be careful to refer only to those limited parts of that section that might apply, and not inadvertently import unnecessary parts of that rule into the LTTS subpart.

Summary

CBT and New Vision provide LTTS services of substantial importance to many companies in the broadcast and cable field. It is important to CBT, New Vision and to their customers that the new Part 101 provides flexibility and clarity in all respects -- for both fixed and temporary fixed operators.

Respectfully submitted,

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